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COMMISSION ON HUMAN RIGHTS

Forty-sixth session

SUMMARY RECORD OF THE 11th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 6 February 1990, at 10 a.m.

Chairman:	Mrs. QUISUMBING	(Philippines)
later:	Mrs. REGAZZOLI	(Argentina)

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The meeting was called to order at 10.15 a.m.

STATEMENT BY H.E. THE SECRETARY FOR FOREIGN AFFAIRS OF THE PHILIPPINES

1. The CHAIRMAN, introducing the Secretary for Foreign Affairs of the Philippines, said that Mr. Manglapus had been in political exile from 1972 until 1986. In 1973, he had founded and become President of the Movement for a Free Philippines, the largest organized opposition group in the United States fighting the Marcos dictatorship. He had returned to the Philippines shortly before the 1986 revolution and had been elected member of the Philippine Senate in 1987. In the same year, President Aquino had appointed him Secretary for Foreign Affairs.

2. He had experienced the atrocities of the Second World War, having fought for freedom and liberation from the occupiers. He was Professor of Constitutional Law and International Relations in universities in both the Philippines and the United States. He was also the author of a number of books and articles.

3. Mr. MANGLAPUS (Secretary of Foreign Affairs of the Philippines) said that the Commission was founded on the Universal Declaration of Human Rights, which constituted an inventory of rights summarizing the total substance of democracy. The ultimate guarantee of those rights was democracy itself, the practical sovereignty of the people. The International Covenants on Human Rights, invoking the Declaration, accepted as limitations on those rights only those which were necessary in a democratic society.

4. Noting that a tidal wave of democracy had recently engulfed the world, he said that there were no more significant military dictatorships in South America, over 1 billion Asians were living in constitutional liberty, political freedom in southern Africa was bounding forward, Western Europe was solidly democratic, and the world was witnessing the democratic renaissance of Eastern Europe.

5. Filipinos laid claim with pride to their own share in the mounting of the global surge to democracy in the past decade. After years of struggle against the Marcos dictatorship, Ninoy Aquino had become a martyr in 1983. In 1986, millions had taken to the streets to confront tanks with rosaries, had routed out the dictator without spilling blood, and had installed Corazón Aquino as the elected President of the Republic.

6. Her passion was for democracy and human rights, her barricades were those of peace and her summoning cry was "people power". That cry had been instantaneously imparted to the world by satellite. "People power" was soon resonating in popular convulsions in the public squares of Latin America, North East Asia and east of the Brandenburg Gate.

7. The Philippines took seriously its commitment to democracy and human rights. It did not interfere but it did applaud whenever democracy was victorious and initiated co-operative enterprises to promote mutual re-enforcement among self-liberated peoples.

8. In June 1988, the first international conference of newly restored democracies had been held at Manila. The conference had discussed common problems of transition and how to defend, without sacrificing human rights, the newly restored democracy against lingering and persistent threats from the violent right and the violent left.

9. A common threat to newly restored democracy was the attempted coup from the violent right. In that connection, he referred to the fact that in 1981, five years after the restoration of democracy in Spain, King Juan Carlos had joined the people in crushing a military siege of Parliament by officers who had naively thought that the King would join them.

10. That story of Spanish democracy was familiar to President Aquino and the Philippine people for, as recently as December 1989, mercenary officers had led a foiled mutiny against the Philippine Constitution believing that President Aquino would capitulate at the suddenness of their attack and that the people would rush to embrace their forces. Like their Spanish cousins, the people of the Philippines had no wish to surrender their freedom to tyranny and, like Spain, the Philippines had resumed its march.

11. Foreign Governments had responded with firm assurances of support for the legitimacy of Philippine democracy. As a result, his Government had confidently made public its adherence to the original optimistic growth targets for 1990. It was in obstinate pursuit of the mercenary leaders still at large. They were being captured one by one, but his Government would not defend its democracy by destroying democracy itself.

12. His country's devotion to the right to human life was tenacious and the new Philippine Constitution had therefore banned capital punishment. The Philippines did not punish with death sentences even those who would kill democracy and in the process kill people, as the mutineers of December had done.

13. In December, after prolonged deliberation, the Congress of the Philippines had passed a law granting President Aquino emergency powers. Not a single right in his country's bill of rights was suspended. The law merely allowed the President extraordinary authority to control prices, direct transportation, regulate fire arms, protect the population from hoarding, profiteering and speculation, and reaffirm constitutional safeguards for self-organization, for peaceful assembly and for petitions to the Government for redress of grievances.

14. The 1987 Constitution had established a commission on human rights, the only such constitutional commission in the world. Like the Philippine judiciary, it was independent and did not respond to the Executive Power. It even heard and advocated cases against the Government. The President also had her human rights committee, which assisted her in monitoring and reacting to human rights violations in the Government. The Department of Foreign Affairs had an Assistant Secretary for Human Rights and Humanitarian Affairs who spoke and acted for the Government at home and abroad and who was currently the Chairman of the United Nations Commission on Human Rights.

15. That machinery, which enabled the Philippines to fulfil its commitments as signatory to international conventions, extended to the granting of

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autonomy to the Muslims and other minorities in the country. The 1987 Constitution mandated regional autonomous organic acts for the integration of the indigenous cultural communities in Muslim Mindanao and the Cordillera region into the mainstream of Philippine economic, political and social life.

16. Pursuing such integration, a democratic plebiscite had been held, in November 1989 in Muslim Mindanao and in December 1989 in the Cordillera region, to decide whether the residents accepted the regional autonomy laws enacted by Congress. Regional elections would be held in February 1990 in areas in Muslim Mindanao which had voted for the autonomy act.

17. The Philippine human rights machinery was elaborate but, as in every human system, there were lapses, and his Government respected and indeed encouraged those non-governmental organizations which monitored its human rights performance and reported on it objectively.

18. It was easy to monitor Philippine society because it was so free. It was therefore easy for anyone who so desired to magnify its lapses to the world, and among the most efficient of those magnifiers were the activists of the violent left. In Europe, as in North America, there was a network of the violent left which had succeeded in raising millions of dollars for remittance to Philippine Maoist rebels. The money frequently came from unwitting institutions which often went to the extent of resorting to theology in order to justify their naiveté.

19. It was amusing to watch that network even in its unfairness and, indeed, in its racism, such as the few but financially capable foreign institutions which condemned apartheid in South Africa and then dismissed with such discredited Marxist deprecations as "bourgeois" the authentic, peaceful and triumphant Philippine revolution for democracy and human rights.

20. He would like to know what else it was but plain racism when women and men of the Caucasian race acclaimed the fall of leftist tyranny and the rebirth of democracy in Eastern Europe and then financed the return of that same tyranny to an already reborn Asian democracy.

21. Democracy as a human value dated from before Marx, Jefferson, the fall of the Bastille, Magna Carta and even Protagoras. Indeed, the dawn of recorded history had found humankind already civilized, and, as archeology was progressively establishing, already democratic. On the other hand, archeology had not uncovered any conclusive evidence of a "despotic caveman civilization". Democracy was an invention neither of the West nor of the East. It was the original state of humankind. That meant that the Commission might claim legitimacy for its acts not only in international law but in the law of nature itself. It meant that the Secretary-General rose above the legal into the moral order when he called for the recognition of a "universal culture of human rights".

22. It was the initiative of the Commission that had ultimately produced in 1986 the General Assembly's Declaration on the Right to Development. Development was a human right and it was painful to develop and still have to pay foreign debt. However, his country did so and its fiscal credibility was high, but so was its passionate attention to poverty. Over 40 per cent of its

national budget went to debt-servicing, yet the Government had declared total war on poverty. President Aquino had accorded the highest priority to delivering the basic services to the lowest 30 per cent of the population.

23. However, the international dichotomy between debt and development must be confronted massively and globally. In too many countries, human rights and fundamental democracy were stymied by external debt. In 1988, the Philippines had proposed that the United Nations should call for the establishment of an international debt and development commission. The proposal, endorsed by the Group of 77, had set in motion the eventual mandating by the General Assembly of the Secretary-General to take initiatives for the relief of international debt.

24. With regard to articles 13 and 14 of the Universal Declaration of Human Rights, he recalled that at the International Conference on Indo-Chinese Refugees, held at Geneva in 1989, he had offered on behalf of his Government to host an expanded regional resettlement centre for Indo-Chinese refugees in the Philippines. His Government had already been hosting two such refugee centres since 1980.

25. One of the conditions his Government had laid down, after consultation with its ASEAN partners, was that Viet Nam should host a counterpart regional holding centre for those not qualified as refugees. That condition had not been met. However in its desire to help relieve the region of its refugee burden, his Government had accepted as an alternative the assurance by the United Nations High Commissioner for Refugees that consideration would be given to the category in question. Consequently, construction for the project was about to begin.

26. In building refugee centres, the Philippines was helping to rebuild individual human beings. Moreover, it was preparing to resettle them in countries that made no distinction between the concept of democracy and that of human rights because those concepts were, indeed, one.

27. The year 2000 lay only 10 years ahead. It was to be hoped that, in the last year of the century, enough evidence would have come to hand to call the Organization no longer just the United Nations but the United Democracies.

STATEMENT BY H.E. THE MINISTER FOR FOREIGN AFFAIRS OF THE NETHERLANDS

28. Mr. van den BROEK (Minister for Foreign Affairs of The Netherlands), having praised the Commission on Human Rights as the cradle of so many important human rights instruments and the main international forum for promoting respect for human rights, one of the most vital roles of the United Nations, said that, if one looked at the standards set by the Commission over the years, a pattern clearly emerged. The Commission had always done justice to the diverging views voiced on the many issues before it. Eminent international scholars and diplomats, representatives of different cultures and political and legal systems, had found a common denominator in the inherent dignity of all men and women.

29. The drafters of the Universal Declaration of Human Rights had not invented the subject; rather, they had uncovered it and given it a truly universal scope. The Universal Declaration had been accepted by all members of the United Nations, whether explicitly or implicitly; gaining political and

legal weight over the years, it had become binding law under article 38 of the Statute of the International Court of Justice. Although the binding nature of the two International Covenants on Human Rights was based on the free consent of the States parties, many provisions were already binding in themselves as rules of customary international law.

30. Some Governments found it difficult to reconcile certain obligations emanating from the Covenants with their own domestic law, which they regarded as paramount, and consequently treated international law as being merely supplementary to their own legislation. That was a false assumption, and if unilateral departures from existing international law were tolerated, the entire fabric of international relations was in danger of unravelling. It was not without reason that the Vienna Convention on the Law of Treaties stipulated that no State could invoke its internal law as justification for its failure to perform a treaty.

31. The essence of international human rights law was that States parties could not reconsider their position. The legal, political and moral nature of human rights instruments did not admit of selective acceptance and rejection. Termination and suspension of international obligations were ruled out with respect to human rights. In the opinion of his Government, the primacy of international law could under no circumstances be called into question.

32. In the past, when States had raised the question of specific human rights abuses in other countries, they had at times been accused of interference in the internal affairs of other States. Over the years, however, an increasing number of States had stopped resorting to such a blanket defence, choosing instead to enter into a dialogue on substance. Unfortunately, as had become clear on several occasions during the most recent session of the General Assembly, that issue, which was of crucial importance to the success of the Commission's work, had not been settled once and for all.

33. In his Government's view, it was the Commission's right and, indeed, its duty to consider, reach decisions and take practical action on violations of international law relating to human rights. Recognition of the limits of national sovereignty was not new. As early as the nineteenth century, it had been accepted that, when man-made disasters occurred, States should not stand idly by. That had led to the drafting of numerous conventions, first and foremost to protect individuals against actions by alien Governments. The beneficiaries included the victims of the slave trade and also the wounded, prisoners of war and civilian population in armed conflicts, the latter concerns culminating in the Geneva Conventions of 1949 and their 1977 Protocols.

34. However, the idea had also gradually emerged that people needed protection against their own Governments too and that the expression of concern by third parties should be regarded as legitimate when fundamental freedoms, basic liberties and inalienable rights were at stake. It had gradually become accepted that States must be held accountable for their human-rights policies. It was of crucial importance not to stop at national boundaries when people were mistreated, imprisoned, tortured or killed.

35. The horrors of the Second World War had given strong impetus to that acceptance. The decision to prosecute those who, under the Nazi régime, had perpetrated against their own nationals crimes that were qualified as crimes

against humanity, had clearly shown that the world had abandoned the view that the State was the sole judge of how it should treat the people under its jurisdiction. By virtue of the Charter of the United Nations, the realization of human rights had explicitly become a legitimate subject for international concern.

36. It was incorrect to say that nothing in the Charter authorized the United Nations to intervene in matters which were essentially within the domestic jurisdiction of a State, because Article 2 and the other relevant Articles of the Charter were clearly concerned with intervening by the use of force and did not prejudice in any way a human rights involvement of the United Nations on the basis of such provisions as Articles 1 and 55 of the Charter.

37. Forty years of United Nations action had clearly been in compliance with the Charter, and there were numerous examples of lawful interference in the domestic affairs of States in connection with human rights violations. That was obviously the case for the United Nations resolutions, and also the decisions by the International Court of Justice, regarding the repulsive system of apartheid in South Africa and the involvement by the United Nations in the affairs of such countries as Chile and Iran, where atrocities had been committed.

38. His Government was convinced that the pressure exerted by the international community had contributed to change, and in that context, it welcomed the important policy changes announced a few days previously by the President of South Africa, such as the intention to free Nelson Mandela unconditionally and the repeal of the ban on the ANC, the PAC and other political organizations. It was also encouraging to note that a democratically elected President was soon to be inaugurated in Chile.

39. Not only could the Organization's common concern for human rights not be dismissed as as interference in domestic affairs, it in fact constituted the duty of Member States towards people whose human rights were being violated and who were entitled to expect the United Nations to hold Governments that violated human rights accountable, just as those people were entitled to hold the Commission on Human Rights accountable for its action or inaction; indeed, they had done so on several occasions before the Commission itself.

40. In 1984, the Minister for Foreign Affairs of Argentina had thanked the Commission for its solidarity and invaluable co-operation in the human rights field during the previous years; in 1985, a Senator from Uruguay had expressed his gratitude to the Commission and the Human Rights Committee for their defence of human rights in his country; while, in 1986, the Minister for Foreign Affairs of Uganda had criticized the Commission for not having acted swiftly to condemn violations committed by previous rulers of his country and had expressed his regret that the international community took such a painfully long time to condemn known human rights violations.

41. Clearly, therefore it was unwise to rely on official statements alone. Events in Poland, Czechoslovakia and Romania were further proof that prisoners might become future rulers - all the more reason to be guided by the universally accepted human rights standards, not merely by the current rulers' views, in judging situations. The Netherlands would continue to voice its

concern whenever a situation so warranted, regardless of region, political system, religion or culture; the defence of human rights could not be qualified as unlawful interference in the internal affairs of a State.

42. The peoples of central and eastern Europe had courageously asserted their right to rule themselves. The free elections being organized in most places would enable those peoples to exercise their right to self-determination on a permanent basis. The United Nations had contributed to the changes; its human rights standards had always provided clear, uncompromising criteria, and the Commission had been actively involved in the human rights situations in Poland and Romania through rapporteurs.

43. His Government was convinced that a change of policy on the part of the central and eastern European delegations would also change the pace and outcome of the Commission's work. With increased efforts by all members of the Commission, it would be able to make substantial progress in matters such as the right to leave and return to one's own country, freedom of opinion, expression and religion, and the elimination of intolerance.

44. Another very relevant subject was the right to stand up for the human rights not only of oneself but also, and especially, of others. If the Commission could finalize a declaration on that issue at its current session, it would provide the best possible evidence that the Organization, which had so often been criticized, could react adequately and swiftly to developments.

45. States in several regions had developed their own standards and implementation machinery in addition to those existing at global level. Regional instruments might complement universally accepted human rights standards but could never replace them or derogate from them. Nevertheless, the United Nations was, perhaps, not gaining full benefit from regional experience. The report regularly submitted by the Secretary-General to the General Assembly on that issue could, perhaps, be enhanced by making information on regional arrangements available at the Commission's sessions.

46. The value of regional efforts was exemplified by the Charter on Human and Peoples' Rights adopted by the Organization of African Unity (OAU), the establishment at Banjul of an African Centre for Democracy and Human Rights Studies, the Inter-American Convention on Human Rights and Inter-American Court of Human Rights, and the European Convention on Human Rights and other conventions elaborated within the framework of the Council of Europe, in which central and eastern European countries had expressed a welcome interest.

47. The Final Document, issued in January 1989, of the Vienna Meeting of the Conference on Security and Co-operation in Europe showed that the participating States had been able to agree on detailed standards and procedures which would enable States to hold each other accountable for human rights violations; those procedures had proved their worth within the same year and had certainly helped to keep up the morale of dissidents and oppressed citizens. He was confident the Commission would wish to study the document and assess what use it could make of those pan-European procedures.

48. He had pleasure in announcing that, shortly before the end of 1989, his Government had contributed to the United Nations Voluntary Fund for Victims of Torture, the United Nations Fund for Advisory Services and Technical Assistance in the Field of Human Rights and the United Nations Voluntary Fund for

Indigenous Populations. Voluntary contributions, although welcome, did not solve the Organization's structural financial problems and the Commission should strongly support any effort to increase the budget of the Centre for Human Rights.

49. The victims of human rights violations put their trust in the Commission, which should always heed them, because they were often not free to speak up for themselves in their own countries. That was not to say that the Commission should deal with all the phenomena of human suffering; for many of them specific forums existed, with which the Commission should co-operate in the alleviation of such scourges as war, hunger, pollution and extreme poverty. In that spirit of solidarity, he wished the Commission success in the work of its current session.

VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE AD HOC WORKING GROUP OF EXPERTS (agenda item 5) (continued) (E/CN.4/1990/6 and 7)

THE ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE COLONIAL AND RACIST REGIME IN SOUTHERN AFRICA (agenda item 6) (continued) (E/CN.4/Sub.2/1989/9 and Corr.1 and Add.1)

IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID (agenda item 15) (continued) (E/CN.4/1990/32 and Add.1-6, 34 and Add.1-2; E/CN.4/1989/31/Add.10, E/CN.4/1989/33 and E/CN.4/1990/35)

STUDY IN COLLABORATION WITH THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES OF WAYS AND MEANS OF ENSURING THE IMPLEMENTATION OF UNITED NATIONS RESOLUTIONS BEARING ON APARTHEID, RACISM AND RACIAL DISCRIMINATION (agenda item 16 (a)) (continued)

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 16 (b)) (continued) (E/CN.4/1990/37, 38 and 50; E/CN.4/1990/NGO/7; E/CN.4/Sub.2/1989/8 and Add.1)

50. Mr. SELEPENG (Botswana), referring to agenda item 5, said that it was a serious indictment of the human rights situation in southern Africa that the Commission had found it necessary to renew regularly the mandate of the Ad Hoc Working Group since 1967. With respect to South Africa, the report of the Ad Hoc Working Group contained instances of human rights violations across the board, including the right to self-determination, the right to life, education and health as well as the fundamental freedoms of expression and association. It was clear from the report that violations of human rights and fundamental freedoms in South Africa flowed from the policies and practices of apartheid. It was equally noteworthy that apartheid had been identified as the root cause of political violence inside South Africa and of destabilization in southern Africa.

51. Over the years, the Commission had sent a clear message to South Africa concerning human rights violations in that country, but the situation seemed to have deteriorated with every succeeding year. Although the abolition of apartheid would not in itself restore human rights and fundamental freedoms in South Africa, it would pave the way for the establishment of a democratic

society in that country, which was the message sent to the South African authorities by the special session of the General Assembly on apartheid.

52. The international community had been awaiting a response from the South African authorities to the message of the special session. The President of South Africa had announced on the occasion of the opening of the tricameral Parliament the release of some political prisoners, a partial lifting of the state of emergency and the unbanning of all political parties and organizations. The release of Nelson Mandela had, however, been postponed to some unspecified date. While those measures were welcome and created a climate conducive to a negotiated settlement of the South African problem, his delegation regretted that they were only partial and considered that the exercise of normal civil liberties was not possible in a situation where the state of emergency was only relaxed. Apartheid policies and practices still had to be abolished in order to allow the enjoyment of human rights and fundamental freedoms in South Africa.

53. With regard to Namibia, the findings of the Ad Hoc Working Group of Experts brought little comfort. Like their neighbours to the south, the people of Namibia had been subjected to the policies and practices of apartheid. The implementation of Security Council resolution 435 (1978) and the transition to self-determination and independence seemed to be proceeding on course, following the elections held in November 1989. In that regard, his delegation paid tribute to the men and women who had made the supreme sacrifice at the battle of Cuito Cuanavale and thus persuaded South Africa to agree to the implementation of that resolution.

54. The lesson to be learnt from the Namibia experience was that the struggle for the restoration of human rights in that Territory had been as bitterly contested as the struggle for independence and self-determination. The Commission should therefore not relent in the case of the human rights situation in South Africa where the problem was much more complex, but should continue to call for the abolition of apartheid. It must continue to demand the establishment of a democratic society, which would facilitate respect for human rights and fundamental freedoms in that country.

55. Miss ATTAH (Nigeria) said that the fact that the question of apartheid had been on the agenda of the international community for well over four decades constituted a serious indictment of the international will to end repression.

56. As a system of institutionalized racism, apartheid was contrary to the purposes and principles of the Charter, the International Covenants on Human Rights and the Universal Declaration of Human Rights. Her country rejected apartheid, which was not only an affront to the conscience and dignity of mankind but also a crime against humanity.

57. The South African racist régime had extended its aggression to the Front-Line States with devastating consequences for the entire region. In the previous decade, some 1.5 million lives had been lost and the devastation had been estimated at more than $60 billion. One half of the populations of Angola and Mozambique had been displaced at least once because of war. In

short, the apartheid régime, through direct military aggression and support for rebel groups in the region, had been responsible for gross and flagrant violations of human rights.

58. The report of the Sub-Commission's Special Rapporteur on the Decade for Action to Combat Racism and Racial Discrimination (E/CN.4/Sub.2/1989/8 and Add.1) showed that the situation in South Africa remained unchanged. Apartheid was still in place despite some marginal and cosmetic reforms.

59. The apartheid régime continued to be strengthened by external financial, economic and cultural interests. According to the report of the Sub-Commission's Special Rapporteur on assistance given to the colonial and racist régime in southern Africa (E/CN.4/Sub.2/1989/9 and Add.1), many transnational corporations had sold their South African affiliates but most of them still maintained economic ties with the apartheid régime through the establishment of non-equity links such as licensing, distribution, management, assembly or franchise agreements.

60. In fact, the report showed that, in spite of the disinvestment programme, the non-equity links were more profitable to the transnational corporations than direct investment. Accordingly, they continued doing business as usual, while ensuring the steady flow and transfer of important technologies, without which the racist régime could not survive.

61. Given that situation, the international community had no choice but to intensify the pressure and apply comprehensive and mandatory sanctions against South Africa. That was the only peaceful way to compel the racist régime to dismantle apartheid.

62. If sanctions had not yet been as effective as they should be, it was mainly because they had been neither mandatory nor comprehensive, and also because sanction-busting activities had reduced their effectiveness. For instance, in cases where companies had withdrawn from South Africa, they had been replaced immediately by new ones, especially from certain Asian countries such as the Republic of Korea, Singapore and Taiwan.

63. However, despite the limited nature of the sanctions imposed by the international community, they had undoubtedly had the desired effect on the Pretoria régime. Moreover, as a result of "people's sanctions" aimed at the major banks and corporations which did business with South Africa, there had been a marked decline in new bank lending and foreign investment in South Africa. Clearly, therefore, if the pressure was escalated, the cost of maintaining apartheid would become prohibitive.

64. She took the opportunity to commend those individuals, particularly in many Western countries, and the non-governmental organizations to which they belonged, whose demonstrations and sacrifices had promoted the campaign for sanctions against South Africa and successfully challenged the reforming postures of the racist régime.

65. Since the previous session of the Commission, there had been significant and positive changes on the international scene. Super-Power relations continued to improve, while the recent dramatic events in Eastern Europe had

had a positive effect on the human rights environment of the States concerned. Serious efforts were being made to reduce tension and resolve long-standing disputes which were at the root of massive human rights violations.

66. Unfortunately, the Pretoria régime had not indicated a real willingness to dismantle the repressive and anachronistic structures of apartheid. What was very conspicuous, however, was the effort by the racist régime to break out of its encirclement and isolation by attempting to take advantage of the situation in Eastern Europe.

67. South Africa would not succeed in its attempt to gain respectability. The new Governments of Eastern Europe were founded on respect for the rights of individuals and groups and committed to the elimination of racial discrimination and apartheid. Accordingly, they would not dignify the racist South African Government. She called upon all States to increase and enforce South Africa's isolation.

68. The favourable international political climate provided an opportunity for the racist régime to dismantle apartheid, and the African National Congress (ANC), in consultation with the mass democratic movements, had produced a plan which had been adopted by the Ad Hoc Committee of the Organization of African Unity on Southern Africa in the Harare Declaration of 21 August 1989.

69. The plan presented guidelines for the commencement of negotiations aimed at the elimination of apartheid, including the unconditional release of all political prisoners and detainees, the withdrawal of all troops from the townships, the ending of the state of emergency and the repeal of all legislation designed to circumscribe political activity, the lifting of all bans and restrictions on all proscribed and restricted organizations and persons, and the cessation of all political trials and political executions.

70. The Declaration had been endorsed by the Ninth Conference of Heads of State or Government of Non-Aligned Countries, held at Belgrade in September 1989, the Commonwealth Heads of Government meeting at Kuala Lumpur in 1989 and the sixteenth special session of the General Assembly on apartheid and its destructive consequences in southern Africa, held in December 1989. The Declaration adopted by the General Assembly at that special session also provided guidelines for negotiations that would lead to the establishment of a non-racial and democratic state. The international community should prevail upon South Africa not to miss such a rare opportunity.

71. Her Government had taken note of the intention of the South African Government to release Nelson Mandela and other political prisoners and to lift the ban on the ANC and other political groups. However, no specific date had been set for the release of Mr. Mandela and the other political prisoners. Moreover, the South African President had not addressed, directly or indirectly, the issue of the total elimination of apartheid. The test of the South African Government's sincerity would be its commitment to begin a deliberate programme for the abolition of hundreds of statutes and codes which constituted the pillars of apartheid.

72. She was disappointed at the undeserved credit accorded to the South African President. It was obvious that some of the reforms so far implemented fell far short of what needed to be done. Apartheid could not be tinkered with or reformed; it had to be entirely dismantled. The international community should judge South Africa by any concrete, credible, cumulative and progressive actions it took to dismantle institutionalized racism. The Commission and the international community should not welcome decisions and actions intended to buy time for the apartheid régime and thereby permit the apartheid forces to regroup.

73. Miss CHAHABI (Observer for the Syrian Arab Republic), speaking in exercise of the right of reply, said that the origin of the opposition of the United Nations to racial discrimination was to be found in its Charter and the Universal Declaration of Human Rights. One of the objectives of the United Nations, as stated in its Charter, was to strengthen respect for human rights and fundamental freedoms without any discrimination on grounds of race, sex, language or religion.

74. In successive General Assembly resolutions, the United Nations had condemned racial discrimination in South Africa, which took the form of an official policy. The question of apartheid had been raised for the first time in 1946, and since then, the Security Council, the General Assembly and other United Nations organs had approved measures for adoption by the international community with the aim of putting an end to apartheid. Such measures had included a prohibition on the sale of weapons and materiél to South Africa, the suspension of all investments and new loans, and restrictions on co-operation with the Pretoria régime in numerous fields, including nuclear weapons.

75. Despite those endeavours, however, the South African racist régime had never ceased its odious practices in violation of the rights of the South African people. According to the report of the Ad Hoc Working Group of Experts (E/CN.4/1990/7, para. 41), the Pretoria Government had renewed the state of emergency in June 1989. The country was still under martial law and political prisoners were still languishing in prison, especially Nelson Mandela, who had become the longest held political prisoner in the world. Assassinations of political activists were continuing. The number of death sentences imposed in political cases had increased. South Africa had one of the highest rates of judicial executions in the world, with executions exceeding 100 a year in recent years. The sentences were imposed in an inequitable manner on the black population by a Judiciary consisting entirely of whites. The Pretoria Government also carried out forcible deportations with a view to redrawing the frontiers of the so-called "homelands".

76. Such inhuman practices were not confined to the people of South Africa, but had spread to the neighbouring States. The rulers in Pretoria had spared no efforts to destabilize those States in an attempt to subjugate them to the wishes of the colonialist régime. South Africa's colonialist and racist policy was similar to the repressive policies and inhuman practices which Israel carried out against the Arab population in the occupied Arab territories. That similarity had been made clear in General Assembly resolution 3379 (XXX) equating zionism and racism.

77. Israel and South Africa had special ties that had never been based solely on economic co-operation but had extended to the military, and particularly the nuclear fields, thereby defying all resolutions of the international community. Such co-operation dated from the mid-1960s and had taken various forms, including the participation by South African pilots, on the pretext that they were Jews, in Israel's aggression against the Arab nation in 1967 and 1973, and Israel's provision of military expertise to South Africa during acts of aggression which it had launched against African front-line States or during terrorist reprisal operations against black South African citizens in the mid-1980s.

78. However, such co-operation, particularly in the nuclear field, had begun to cause international anxiety in recent years. The scope of the military co-operation between the two racist régimes was estimated to be $30 billion. There were at least 17 military installations which engaged in joint military production for both Israel and South Africa. Most were situated in occupied Palestine and financed by Pretoria. The two principal facilities produced ground-to-ground missiles of the Jericho type. Those missiles, could carry nuclear warheads which were being produced at the Zionist nuclear reactor at Dimona.

79. Since the beginning of the previous decade, South Africa had been supplying Israel with uranium for processing. Israel was also carrying out tests in South Africa. The co-operation between the two régimes had recently reached its peak when Israel had transferred United States missile technology to racist South Africa in a clandestine manner and carried out field tests on intercontinental ballistic missiles.

80. The transfer of sophisticated United States technology by the Zionist enemy to the South African régime constituted a flagrant violation of the sanctions imposed by the United Nations and a serious threat to international peace and security. At a time when the super-Powers were trying to rid themselves of their nuclear arsenals, the two racist régimes were expanding the scope of proliferation of such weapons in total disregard of all international laws and conventions.

81. At its most recent session, the General Assembly had condemned the co-operation in the nuclear field between the Zionist entity and racist South Africa and deplored Israel's refusal to place its nuclear facilities under the control of the International Atomic Energy Agency. The Assembly had also called upon all States and organizations to cease all co-operation with the Zionist entity in the nuclear field. The Western States which constantly supported Israel and South Africa must therefore review their positions in the light of the recent developments which had clearly shown the policies of those régimes to be based on persecution and disenfranchisement.

82. Her Government strongly condemned the apartheid régime and had been among the first to sign the International Convention on the Suppression and Punishment of the Crime of Apartheid.

83. She called upon the international community to intensify its efforts to isolate South Africa and impose the strictest sanctions upon it, since that was the only way to eliminate apartheid. She also supported the struggle of the black majority of South Africa to establish a free, democratic and

non-racial society in which all the national aspirations of the people of South Africa would be fulfilled in a spirit of freedom, justice and equality.

84. Mr. LITTMAN (World Union for Progressive Judaism), having pointed out that racial discrimination had always been rejected in Jewish tradition, said his organization unequivocally condemned the abhorrent system of apartheid. However, the international community should hold its hand for the moment and give President de Klerk the encouragement he needed to go forward with change and implement the ideas contained in his recent enlightened speech. It was the wrong time for further economic sanctions. More moderate United Nations resolutions would help the Government of South Africa along the road of reform to end apartheid. Changes in the attitudes of the outside world might thus contribute to rebuilding a divided society along non-racial, democratic lines.

85. Unfortunately, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, by adopting on 31 August 1989 a virtually unmodified resolution on the situation in South Africa (resolution 1989/3), had ignored the meeting between President de Klerk and President Kaunda of Zambia, chairman of the six Front-Line States that had taken place, just two days previously and, more generally, the changes upon which the Government of South Africa was attempting to embark. Furthermore, the resolution called upon the international community to continue its efforts towards total economic, cultural and political isolation of the South African apartheid régime and called for immediate and complete disinvestment, whereas a massive injection of investment capital was needed for economic development, education and training, which would benefit the post-apartheid society while punitive measures would wreck the economy and bring chaos to both South Africa and its neighbours, which were heavily dependent upon it.

86. What the Sub-Commission had refused to take into consideration was understood by the General Assembly, which at its most recent session, had abstained from introducing further sanctions and had implicitly relaxed current embargoes on South Africa. In the meantime, eight prominent black South African political prisoners had been unconditionally released, the Separate Amenities Act was soon to be repealed and President de Klerk's courageous opening speech in the South African Parliament on 2 February 1990 held the promise of future improved conditions in South Africa.

87. Nelson Mandela's imminent unconditional release was excellent news; only his authority would be strong enough to curb the extremists in the townships, keep the children at school and stop internecine strife. His presence was vital to negotiations on sharing power with the Government of South Africa and on bringing a new constitution into being. The removal of the ban on the African National Congress (ANC), the Pan Africanist Congress of Azania (PAC) and the South African Communist Party, the lifting of restrictions on 33 organizations, including the United Democratic Front (UDF), the removal of restrictions on released detainees and the repeal of most press censorship were steps towards full implementation of civil rights in South Africa. The expressed intent to change the law on the death penalty was particularly welcome.

88. In view of the unprecedented changes throughout the world in the past year, it was to be hoped that the Commission would give every possible

encouragement to the ongoing attempt at mutual reconciliation and reconstruction in South Africa; such a realistic policy would have a most beneficial effect throughout southern Africa.

89. In view of the tragic events in Beirut, where fratricidal bombings had caused the death of more than 300 persons over the past week, he appealed to the Commission to call upon the various Christian forces in Lebanon to cease the bombardment of the civilian population.

90. The CHAIRMAN reminded delegations that they should speak only to the agenda items under consideration.

91. Mrs. Regazzoli (Argentina) took the Chair.

92. Ms. BAILLON (International Federation - Terre des Hommes) said that the Federation was still concerned about the discrimination and violence against black children in South Africa. As a result of the system of separate education, only 42 per cent of black pupils had passed the school-leaving examinations in November 1989, of whom less than 10 per cent had reached university entrance level - a drop of 12 per cent in the success rate compared to the previous year, whereas the success rate for white pupils had been 95 per cent.

93. Those results reflected the inequalities of the South African educational system and the deficiencies in the education imparted to black children: in fact, the Government spent four times as much on a white child's education as on that of a black child. Moreover, many black children were unable to enrol due to lack of school places, whereas many white schools had had to close due to lack of pupils. Although some 2 million non-white children were thus unable to attend school, they were not being deprived of the right to education according to South African law, which deemed their education a privilege not an obligation. Even those children who did attend school lacked school equipment, the buildings were often dilapidated and some 75 per cent of their teachers lacked the requisite professional training.

94. Pupils' organizations had for years been rejecting the system of separate education. Demonstrations and boycotts had reached considerable levels since August 1989, but had met with repression throughout the country by Government forces: temporary closure of schools, arrest and surveillance of pupils, and threats against parents' and pupils' organizations.

95. On 30 August 1989, three schoolchildren had been wounded when the police opened fire within West Ridge High School. Such acts of violence were a feature of the repression against the children's anti-apartheid movement, as were harassment, psychological pressure, arrest, torture and killing by the police, armed forces and "vigilantes" or other armed groups.

96. The anti-apartheid organizations estimated that, since the state of emergency was declared in 1986, tens of thousands of children had been arrested and imprisoned, the internal security legislation having annulled the legal provisions for child protection. Children were being held in pre-trial detention for indefinite periods, some being held in solitary confinement and incommunicado. Some also had been subjected to torture and ill-treatment and had had death threats made against their parents.

97. Most of them had never in fact been brought to trial at all, but those who had been found guilty of violent breaches of the peace were held in adult prisons because of the lack of detention centres for minors. Among detained minors, the situation of babies born in prison, or infants accompanying their mothers to prison, should not be forgotten. Medical reports had testified to the physical and psychological effects of imprisonment on children.

98. As a result of the 1987 International Conference on Children, Repression, and the Law in Apartheid South Africa and international pressure, the proportion of minors among political detainees had fallen from 34 per cent in 1986 to 10 per cent in mid-1989. In order to maintain strict control over the young people, however, the authorities currently preferred restrictions on young people and youth organizations, which limited their freedom of movement and activities, such as daily reporting to the police, and a ban on meeting more than 10 persons, which interrupted school attendance. There was also pressure to inform on friends involved in political activities.

99. Young children had often been among those killed and wounded when police opened fire to disperse demonstrations. Many children who had fled from violence and repression had become homeless, delinquent, members of gangs and drug addicts; recent reports suggested that the police had provoked inter-gang rivalry to create unrest in certain quarters.

100. Because of the constant violation of black children's rights in South Africa, her organization recommended that the Commission should urge the South African Government to ratify the new Convention on the Rights of the Child, should publicize as widely as possible the situation of black South African children, especially those detained or on probation and should invite the Member States to encourage their national child-protection organizations to support the anti-apartheid organizations in South Africa.

101. Mr. NOORANI (India) said that, as his country's leaders in its independence struggle had always stated, freedom must be considered incomplete until all the peoples under colonial domination had achieved their freedom. The most repulsive feature of colonial exploitation was racism, which was nowhere more institutionalized than in the apartheid system of South Africa. That system was in direct conflict with the Charter and the Universal Declaration of Human Rights, and the Commission would be failing in its duty if it did not lend its full weight to the struggle against it.

102. The winds of change that had blown Namibia toward independence had also been felt in neighbouring South Africa, where many white citizens had become conscious of the need to dismantle the apartheid system completely. His Government welcomed the positive measures announced by the President of South Africa, including the lifting of the ban on the ANC and PAC, the suspension of the death penalty, the release of some political prisoners, the ending of media restrictions and the lifting of restrictions on former detainees.

103. It was dismayed, however, that Nelson Mandela was still in prison, that the state of emergency was still in force and that, more dangerously, "political" offences had not been defined. It was concerned that detention without trial was being maintained under the security regulations, and that legislation based on apartheid was still in place.

104. In short, while welcoming the movement towards negotiations, his delegation did not believe that the steps that had been taken were adequate. It was too early to judge. Suggestions that apartheid was being reformed were misleading; apartheid could not be reformed, only dismantled. World public opinion, which had prompted the steps already taken, must continue to support the struggle within South Africa to end the horror of apartheid and to put pressure on the South African authorities to meet all the pre-conditions agreed upon in the Declaration on Apartheid and its Destructive Consequences in Southern Africa, recently adopted by the General Assembly.

105. The words of the President of South Africa about the need for universal franchise, equality and the dismantling of apartheid must be matched by acts. Peaceful transition to a unitary, non-racial and democratic South Africa could be achieved only through negotiations between Pretoria and the South African People's genuine representatives as free and equal partners.

106. Until then, international pressure on the South African Government, including the enforcement of comprehensive and mandatory sanctions, should be maintained. There was convincing evidence that sanctions had worked; they should be extended in range and scope so as not to lose the momentum so painfully gained when success was in sight. It was dismaying that some countries sought to ease that pressure, but sanctions could and should be relaxed only after genuine change had been effected.

107. The movement of the Non-Aligned Countries had, from its inception, been in the forefront of the struggle against apartheid. It had set up a Fund to provide emergency assistance to the Front-Line States and the national liberation movements in southern Africa; the Fund had received encouraging support, with pledges amounting to nearly half a billion dollars. It was hoped that such international solidarity would be reinforced through sanctions applied by countries in a position to strengthen them effectively and whose responsibility in that regard could not be evaded.

108. He reiterated India's total opposition to the policy of racial discrimination whenever, wherever and in whatever form it was practised. India's links with the struggle in South Africa stemmed from the turn of the century. Although many nations had gained independence since then, and the democratic process had gathered momentum, the majority of South Africans remained disenfranchised and deprived - a state of affairs which must end. Apartheid was the most tragic anachronism of the times, and all must act together to facilitate its early disappearance.

The meeting rose at 1 p.m.